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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Rulemaking to Amend Part 1 and	)	
Part 21 of the Commission's Rules	)	
to Redesignate the 27.5-29.5 GHz	)	CC Docket 92-297
Frequency Band and to Establish	)	
Rules and Policies for Local	)	
Multipoint Distribution Service	)	

REPLY COMMENT OF THE
ANCHORAGE TELEPHONE UTILITY

The Anchorage Telephone Utility ("ATU") hereby replies to certain comments filed in the above-referenced

vitally important to Alaskans, ATU is exceptionally interested in new spectrum-based alternatives for bringing its subscribers top-quality telecommunications services.

ATU supports the Commission's proposal to allocate spectrum to LMDS. New allocations that will permit flexible use of a significant amount of spectrum to provide voice telephony, high-speed wireless data transmission, videoconferencing, wireless facsimile, interactive and information services, and video services will greatly expand the options available to ATU and its subscribers as demand for wireless services continues to grow. If LMDS is structured to be such a flexible and useful service, as it should be, ATU will have a strong interest in utilizing LMDS frequencies to provide new services to its subscribers and to improve and enhance their existing services.

The very flexibility inherent in the Commission's proposal makes it critically important that local exchange carriers ("LECs") such as ATU be eligible to apply for LMDS frequencies and that their use of LMDS frequencies not be artificially restricted. LMDS will permit local telephone companies to provide integrated voice, data and video telecommunications, explore multimedia applications using wireless technology, and greatly expand opportunities in information and video programming services for consumers who now may have few available options for such services. Permitting LECs to hold LMDS licenses will provide a

significant gain in diversity of services available to consumers across the country.

This gain will be especially valuable to consumers in remote or rural areas that have not, to date, been able to take advantage of new telecommunications services that have benefitted more densely populated areas of the country.[1/] In ATU's service area, for example, LMDS could be put to use to provide wireless digital telephony and two-way, high-capacity wireless data transmission. It could provide wireless local loop services in areas where wired infrastructures would be less efficient than spectrum-based solutions, and could permit dated wired infrastructure in some areas to be replaced by next-generation wireless systems.[2/] LMDS could provide an important part of the network that will enable telecommuting in areas where distances to workplaces may be substantial. It could be used to implement wireless two-way video imaging

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[1/] Once again, local LECs would be ideally positioned to ensure deployment of LMDS in less-populated areas. See Comments of Telephone & Data Services, Inc., pp. 4-5 ("LEC involvement could be particularly significant in rural areas and small communities where LECs are uniquely positioned to build and operate LMDS systems because of their knowledge of local market needs, human and financial resources, and established technical qualifications").

[2/] For example, some LECs are considering replacing outdated wired services in small, isolated communities with digital, wireless local loop systems. See U.S. Alternative Access Technology Could Open Europe's Monopoly Markets, Global Telecom Report, Dec. 21, 1992, at 2 (wireless local loop implemented in Quitaque, Texas, population 500). LMDS technology, if it is implemented on a broad scale throughout the country, could provide a cost-effective method of updating telephone systems in isolated communities.

telephony systems that could permit advances in rural health care management and education, and facilitate greater interaction between field workers and central offices in all manner of industries.

Some of these visions will be realized; others, of course, may not. But the point is that there are a plethora of potential services that could be provided within a flexible LMDS allocation. Provision of entertainment video programming is not the sole -- or, we believe, even the dominant -- service that should be provided under the LMDS umbrella.[3/]

LECs such as ATU would put LMDS frequencies to their highest and best use, which very well may not be the provision of entertainment video programming. LECs have significant experience in implementing new telecommunications technologies and would have the ability to use bring to bring new technologies to the marketplace swiftly.[4/] LECs also would have every incentive to utilize LMDS to deploy new services

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[3/] See Comments of Video/Phone, Inc., pp. 3-4 ("the greatest demand" for LMDS "will be for video telecommunications services such as videoconferencing, telecommuting, telemedicine and education -- services for which today there are no economical vehicles"); Comments of Pacific Telesis Group, pp. 2-3 ("Because of the uncertainty of the development of this service, cross-ownership restrictions would be counterproductive. They would stifle experimentation and development of this technology by eliminating interested parties"); Comments of Rock Hill Telephone Company, p. 3.

[4/] See U S West, Inc. Comments, pp. 4-5 ("a telephone company providing LMDS service could bring substantial public benefits because of its unique experience in serving customers in a given area").

broadly to large portions of the population.[5/] Excluding the class of companies that can most fully utilize LMDS frequencies would be counterproductive indeed.[6/]

ATU also agrees with commenters finding that provision of video programming services by use of LMDS would not be barred by the statutory cross-ownership provision of the Cable Communications Policy Act of 1984, 47 U.S.C. § 533(b)(1), and the Commission's Rule implementing that provision, 47 C.F.R. § 63.54(a).[7/] The statutory cross-ownership bar was intended to "codify current FCC rules concerning the provision of video programming over cable systems by common carriers."[8/] The statutory definition of "cable system" -- which relies on "closed transmission paths"

[5/] See Comments of Telephone & Data Systems, Inc., p. 4 ("The public benefits of LEC involvement in the deployment of these technologies include early deployment, lowered costs, reduced market risks and ubiquitous coverage").

[6/] ATU does not believe that permitting LECs to hold LMDS licenses would have anti-competitive consequences. Quite to the contrary, permitting LMDS licensure of a class of companies that is ideally positioned to bring LMDS to the American public will have pro-competitive effects in injecting further competition into local markets. LEC eligibility will benefit, rather than harm, competition.

[7/] See, e.g., Comments of the United States Telephone Association, pp. 2-3.

[8/] H. Rep. No. 98-934, 98th Cong., 2d Sess. 38 (1984); see Comments of Sprint, pp. 10-11. As U S West points out, the intent of Congress in establishing the cross-ownership provision was to prevent companies with control over utility poles and conduit space from using those infrastructure advantages to compete unfairly. See Comments of U S West, Inc., pp. 9-10; see also Comments of Sprint, p. 11. Because LMDS does not utilize a traditional wired cable system, the same policy concerns do not apply.

-- rather clearly excludes services such as LMDS, and the Commission's rule implementing that provision should be given a reading consistent with Congress' intent.[9/] Accordingly, LECs should be eligible for all services that could be provided by LMDS.

Even if, however, the cross-ownership provision in the Act is interpreted to require that LECs be ineligible to provide video programming using LMDS frequencies, LMDS still could be a significant benefit to LEC efforts to provide video dialtone to the public. It also should not be overlooked that Congress could lift the telephone company/cable cross-ownership restriction under pending legislative initiative, and it would be unwise as a matter of policy to take any action now that could be made obsolete by legislative action before LMDS is implemented as a new service. It would be a far better course to permit all companies to be eligible at the outset and consider restrictions only at a later date and only if a truly compelling rationale in favor of restrictions emerges.

[9/] The Cable Act was drafted and passed with the specific legislative intent to regulate the traditional cable television industry, which was subject to [illegible]

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For all these reasons, the Commission should permit LECs to hold LMDS licenses.

Respectfully submitted,

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CERTIFICATE OF SERVICE

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